

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

S. DISTRICT COURT
N.D. OF N.Y.
ORIGINAL FILED

OCT 23 2000

UNITED STATES OF AMERICA,

Plaintiff,

v.

PONDEROSA FIBRES OF AMERICA, INC.;
MARTIN B. BERNSTEIN; NATHAN
BERNSTEIN; JEFFREY FEIL; ESTATE
OF LOUIS FEIL; ROLAND O.A.
FJALLSTROM; JEROME GOODMAN;
and ROBERT L. PITMAN

Defendants.

CITY OF OGDENSBURG,

Plaintiff-Intervenor,

v.

PONDEROSA FIBRES OF AMERICA, INC.

Defendant.

LAWRENCE K. BAERMAN, CLERK
ALBANY

Civil Action No. 99-CV-1305
(FJS/RWS)

AMENDED COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this Amended Complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action brought by the United States pursuant to (a) Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act

("CERCLA"), 42 U.S.C. § 9607(a), (b) Sections 3304 and 3306 of the Federal Debt Collection Procedures Act ("FDCPA"), 28 U.S.C. §§ 3304, 3306, and (c) the Federal Priority Statute, 31 U.S.C. §§ 3701, *et seq.* In this action, the United States seeks:

a. A judgment, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), that Defendants Ponderosa Fibres of America, Inc. ("PFA"), Martin Bernstein and Jerome Goodman are jointly and severally liable for all unrecovered response costs incurred by the United States with respect to the St. Lawrence Pulp and Paper Superfund Site ("Site"), in Ogdensburg, New York, plus interest thereon, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint;

b. A declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that Defendants PFA, Martin Bernstein and Jerome Goodman are jointly and severally liable to the United States for all future response costs to be incurred by the United States with respect to the Site not inconsistent with the National Contingency Plan, plus interest thereon, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint;

c. A judgment that certain transfers of assets from Defendant PFA to Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Louis Feil, Roland Fjallstrom, and Robert Pitman were fraudulent as to debts to the United States and null and void to the extent necessary to satisfy the debts of PFA to the United States, pursuant Sections 3304 and 3306 of the FDCPA, 28 U.S.C. §§ 3304, 3306;

d. A judgment that Defendants Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Roland Fjallstrom, and Robert Pitman are each personally liable to the United States, to the extent that he made or directed transfers, assignments or payments by PFA before paying claims of the United States, in violation of Section 3713(b) of the Federal Priority Statute, 31 U.S.C. § 3713(b);

e. The freezing, and imposition of a Constructive Trust for the benefit of the United States over, the assets of Defendants Martin Bernstein, Nathan Bernstein, Jeffrey Feil, the Estate of Louis Feil, Roland Fjallstrom, Jerome Goodman, and Robert Pitman, in amounts equal in real dollars to the wrongful transfers from, or assignments or payments by, PFA to those Defendants, to ensure the satisfaction of the United States' claims against PFA, including without limitation the United States' claims under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607; and

f. An injunction against Defendant PFA, its officers, directors, shareholders, agents, employees, successors and attorneys, from transferring, dissipating, encumbering, assigning, disposing, removing, concealing, ill treating, wasting, destroying, converting, or otherwise adversely affecting the value of any cash, real or other property, or any other assets in the possession of PFA, to the extent necessary to satisfy the claims of the United States against PFA, including without limitation the United States' claims under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and Defendant PFA pursuant to Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607, 9613(b), Sections 3304 and 3306 of the FDCPA, 28 U.S.C. §§ 3304, 3306, 31 U.S.C. § 3713, and 28 U.S.C. §§ 1331, 1345, 2201, and 3001.

Venue is proper in this district pursuant to Sections 107 and 113(b) of CERCLA, 42 U.S.C. §§ 9607, 9613(b), and 28 U.S.C. § 1391(b)-(C), because the releases or threatened releases of hazardous substances that gave rise to this claim occurred in this district, and because the Site is located in this district.

DEFENDANTS

3. PFA is a Delaware corporation, with its principal place of business in Atlanta, Georgia. From 1984 to 1987, PFA was a wholly-owned subsidiary of Ponderosa Fibres

Operating Company ("PFOC"), and PFA owned *inter alia* 100% of the stock of Ponderosa St. Lawrence Corporation ("PSL").

4. PFA is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. Martin Bernstein is an individual residing at 194 Titicus Road, North Salem, New York 10560.

6. Martin Bernstein has been an officer of PFA from 1972 to the present, a director of PFA from 1974 to the present, and a shareholder of PFA from at least 1987 to the present.

7. Martin Bernstein is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

8. Jerome Goodman is an individual residing at 4702 Creekside Circle, Apt. 101, Owings Mill, Maryland 21117 (formerly 2307 Hidden Glen Drive, Owings Mill, Maryland 21117).

9. Jerome Goodman was an officer of PFA from 1972 to the present, a director of PFA from 1974 to the present, and a shareholder of PFA from 1987 to the present.

10. Jerome Goodman is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

11. Nathan Bernstein is an individual residing at 164 East 64th Street, New York, New York 10028.

12. Nathan Bernstein has been an officer of PFA from 1997 to the present.

13. Jeffrey Feil is an individual residing at 15 Atkinson Road, Rockville Center, NY 11570.

14. Jeffrey Feil has been an officer of PFA from 1980 to the present, a director of PFA from 1987 to the present, and a shareholder of PFA from 1987 to the present.

15. The Estate of Louis Feil is an estate of a deceased individual who formerly resided in 53 Voorhis Avenue, Rockville Center, NY 11570.

16. Louis Feil was an officer of PFA from 1972 until 1999, a director of PFA from 1974 to 1999, and a shareholder of PFA from at least 1987 to 1999. Upon information and belief, Louis Feil died in 1999.

17. Roland Fgallstrom is an individual residing at 126 Sal Mountain Way, Sautee-Nacoochee, Georgia 30571.

18. Roland Fgallstrom has been an officer of PFA from 1997 to the present.

19. Robert Pitman is an individual residing at 4428 Cedar Glen, Stone Mountain, Georgia 30083.

20. Robert Pitman has been an officer of PFA from 1997 to the present.

GENERAL ALLEGATIONS

21. The St. Lawrence Pulp & Paper Superfund Site is located at 2 Madison Street, Ogdensburg, St. Lawrence County, New York, and encompasses approximately eighteen (18) acres in a mixed residential and commercial area. The Site is bordered to the north by a commercial establishment, to the south by the City of Ogdensburg ("City") water supply, to the east by commercial and residential properties, and to the west by the St. Lawrence River. Approximately 3,000 persons reside within a one-mile radius of the Site.

22. From the early 1900s to at least 1985, the Site was used intermittently for the manufacture of pulp and paper products.

23. PSL purchased the Site property from the Bank of New York ("BNY") on June 18, 1984 and conveyed title back to BNY through a deed in lieu of foreclosure, dated April 23, 1986. PSL was the owner of the Site property for at least the period from June 18, 1984 to April 23, 1986.

24. At least for the period from June 18, 1984 to April 23, 1986, PSL owned the buildings and improvements located within the boundaries of the Site property.

25. At least for the period from July 1984 to June 1985, PFA, PSL, PFOC, Martin Bernstein, and Jerome Goodman operated a facility for the conversion of waste paper and pulp into de-inked pulp at the Site ("Facility").

26. PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman were the last entities to conduct deinking or pulp operations at the Site.

27. During at least the period from June 18, 1984 to April 23, 1986, the Facility released and disposed of materials containing hazardous substances, within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9607(a) ("hazardous substances").

28. At or about the time PSL purchased the Site property, PSL acquired drums and their chemical contents, which had been disposed of by prior owners or operators of the Site. Upon information and belief, such chemicals included CERCLA hazardous substances, which were released and disposed of at the Site during the period of the Site's ownership or operation by PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman.

29. Upon information and belief, many of the drums referenced in the previous Paragraph were in damaged or deteriorated condition such that their contents, including CERCLA hazardous substances, leaked or spilled, or were otherwise released and disposed of at or from the Site during the period of the Site's ownership or operation by PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman.

30. During the time PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman owned or operated the Site, large areas of the Site, including open ground, were covered with sludge, a by-product of the process for producing deinked paper pulp.

31. The above-referenced sludge was generated by, released from and disposed of at the pulp Facility.

32. The above-referenced sludge contained "hazardous substances," within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9607(a), including without limitation polychlorinated byphenyls ("PCBs") and various heavy metals.

33. Upon information and belief, during the time PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman owned or operated the Site, the pulp Facility at the Site released and disposed of hundreds of gallons of other CERCLA hazardous substances, including without limitation, toluene, trichloroethylene ("TCE") and methylene chloride.

34. On May 20, 1985, the New York State Department of Environmental Conservation ("NYSDEC") conducted an annual inspection of the Site's wastewater treatment facility and found, inter alia, that: areas around the primary settling tank were covered with spilt sludge; sludge-encrusted media was being washed down in an area between the Facility's mill and the St. Lawrence river; and spillage occurred along the edge of the treatment facility's intake trough.

35. PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman abandoned the Site in or about June 1985, leaving behind CERCLA hazardous substances, releases of which led to the incurrence of response costs by the United States.

36. On October 14, 1987, NYSDEC inspectors observed contaminated soil left in place and covered with gravel, where there had been a collection of drums; at least 30 drums inside the mill building at the Site; a full 55-gallon, black plastic drum lying on its side adjacent to the Site's wastewater treatment plant; a partially full 55-gallon drum nearby; and a large outdoor tank labeled "sulfuric acid."

37. Many of the drums abandoned on open ground at the Site by PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman had deteriorated to such an extent that much of their contents had already leaked out as of October 1987.

38. On October 2, 1995, NYSDEC conducted a Site inspection and observed approximately 100 abandoned drums, many in poor condition; stained ground and building

surfaces; transformer banks in four locations where the cores had been removed for salvage; sulfuric acid process pits; and one underground kerosene tank.

39. In 1995, during investigations of the Site, NYSDEC found 75 drums believed to contain CERCLA hazardous substances.

40. On October 26, 1995, in order to protect the public health and welfare and the environment, NYSDEC requested that EPA undertake a removal action, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

41. On November 20-21, 1995, EPA conducted an on-Site assessment and found between 120 and 140 55-gallon drums and other containers in variety of locations on several floors of both the Main Mill and Sulphite Mill buildings at the Site. Of those, between 80 and 95 drums were full or partially full. Upon information and belief, many of those drums contained CERCLA hazardous substances, including without limitation surfactant, phosphoric acid, hydrochloric acid, and other corrosive materials. Many of the drums were in rusted, deteriorated or otherwise poor condition. There was evidence of past spills and leaks around many of the drums, including stains on surrounding ground. EPA also found that approximately 200 square feet of ground surface on the first floor of the Main Mill Building was covered with waste oil.

42. In early 1996, EPA conducted Site investigations and again found between 120 to 140 drums there, between 80 and 95 of which contained liquid. Samples of that liquid confirmed the presence of various CERCLA hazardous substances. Among other things, liquid from the drums exhibited "corrosivity" within the meaning of Section 3001 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6921, codified at 40 C.F.R. § 261.22. Corrosive liquids are CERCLA "hazardous substances," within the meaning of Sections 101(14) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9607(a).

43. Upon information and belief, drums found at the Site contained other CERCLA hazardous substances as well, including solvents, acids, waste oils, transformer oils, and caustics.

44. Multiple drums found by EPA at the Site were leaking.

45. EPA also found friable asbestos in structures and on the ground at the Site. Friable asbestos is a CERCLA hazardous substance.

46. On May 14, 1996, EPA served a notice of potential liability and request for information, pursuant to Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2) ("104(e) Notice and Request"), on PFA, among others. In such 104(e) Notice and Request, EPA requested that PFA fund or perform a CERCLA removal action at the Site. By letter dated July 8, 1996, PFA declined the request.

47. From approximately May 13, 1996 to November 6, 1997, EPA itself conducted a removal action at the Site, under Section 104 of CERCLA, 42 U.S.C. § 9604. EPA's removal action included, inter alia, the installation of security fencing, investigation and sampling, oversight, off-Site disposal of waste-containing drums, off-Site disposal of contaminated waste water, and off-Site disposal of asbestos-containing material.

48. PSL was a wholly-owned subsidiary of PFA from 1984 to June 22, 1987.

49. PFA was a wholly-owned subsidiary of PFOC from 1984 to July 6, 1987.

50. Martin Bernstein, Louis Feil, Jeffrey Feil, and William Kelly together owned 100% of PFOC's stock from 1984 to December 31, 1986, after which time, upon information and belief, Martin Bernstein, Louis Feil and Jeffrey Feil together owned 100% of PFOC's stock until July 6, 1987.

51. Of the three corporations, PSL, PFA, and PFOC, only PFA remains in existence today.

52. PFA was incorporated on or about June 21, 1972 and has been engaged in the manufacture and sale of de-inked pulp since that time.

53. On December 21, 1979, PFOC was incorporated under the laws of the State of Delaware, with its principal place of business in Atlanta, Georgia.

54. Upon information and belief, PFA and PFOC shared offices in Atlanta, Georgia.

55. At various times, PFA and PFOC have shared officers and directors:

a. Martin Bernstein has been an officer of PFA from 1972 to the present and a director of PFA from 1974 to the present. Martin Bernstein was an officer of PFOC from 1980 to 1987 and a director of PFOC from 1979 to July 6, 1987.

b. Louis Feil was an officer and director of PFA from 1972 to 1999. Louis Feil was an officer of PFOC from 1980 to July 6, 1987 and a director of PFOC from 1979 to July 6, 1987.

c. Jeffrey Feil has been an officer of PFA from 1980 to the present and a director of PFA from 1987 to the present. Jeffrey Feil was an officer of PFOC from 1980 to July 6, 1987 and a director of PFOC in 1987.

d. William Kelly was an officer and director of PFA from 1980 to June 22, 1987. William Kelly was a director of PFOC from 1979 to December 31, 1986 and an officer of PFOC from 1980 to December 31, 1986.

56. In or about January 1980, Martin Bernstein, Louis Feil, Jeffrey Feil, and William Kelly together acquired 100% of the stock of PFOC.

57. In or about January 1980, PFOC acquired 100% of the stock of PFA.

58. On February 27, 1984, PSL was incorporated under the laws of the State of New York.

59. Upon information and belief, a dual officer and director of PFA and PFOC initiated the incorporation of PSL, for the purpose of acquiring and operating the Facility.

60. Upon information and belief, PSL had its principal place of business in New York, New York, and shared offices there with Martin Bernstein.

61. At or about the time of PSL's incorporation, PFA acquired 100% of PSL's stock, which PFA held until June 22, 1987.

62. From 1984 to July 3, 1987, PFA also owned 100% of the stock of at least four other corporations engaged in the manufacture and sale of pulp, including Ponderosa of Tennessee Corporation ("PTC"), a Tennessee corporation; Ponderosa Pulp Products, Inc.

("PPP"), a Wisconsin corporation; Ponderosa Georgia Corporation ("PGC"), a Georgia corporation; and B.J. Fibres, Inc. ("BJF"), a California corporation.

63. From 1984 to 1987, officers and directors of PFA and its predecessor PFOC also held positions as officers and directors of PSL.

64. From 1984 to 1987, PSL's President, Secretary, and Treasurer were also officers and directors of PFA, as well as officers, directors and shareholders of PFOC.

65. From 1984 to 1987, Martin Bernstein held at least the following positions simultaneously:

- a. PFOC Vice President, Secretary, Treasurer, director, and shareholder;
- b. PFA Vice President, Secretary, Treasurer, and director;
- c. PSL President;
- d. PTC President;
- e. PPP President;
- f. BJF President; and
- g. PGC President.

66. From 1984 to 1987, Jeffrey Feil held at least the following positions simultaneously:

- a. PFOC Assistant Secretary;
- b. PFA Assistant Secretary; and
- c. PSL Secretary and Treasurer.

67. Upon information and belief, from 1984 to 1987, Jeffrey Feil also held the positions of Secretary and Treasurer of PTC, PPP, BJF, and PGC.

68. From 1984 to 1987, Louis Feil, Jeffrey Feil's father, held at least the following positions simultaneously:

- a. PFOC President and director; and
- b. PFA President and director.

69. From 1984 to 1987, Jerome Goodman held at least the following positions simultaneously:

- a. PFOC Vice President;
- b. PFA Vice President of Operations; and
- c. PSL Vice President of Operations.

70. From 1984 to 1987, the officers and directors of PSL did not act independently of the officers and directors of either PFA or PFOC.

71. Upon information and belief: At all relevant times, Martin Bernstein has also served as General Counsel to PFA, PSL, PFOC and their related entities. As shareholder, officer, director and General Counsel of PFA, PSL and PFOC, Martin Bernstein personally directed significant corporate transactions for PFA, PSL and PFOC, including corporate loans, mergers and major Site-related transactions. Consistent with his authority to make decisions regarding funding to open and close pulp mills throughout the country, Martin Bernstein arranged for and approved the funding used to commence operations at the Site's pulp Facility, including funding for waste disposal, plant modifications and environmental consulting, as well as the purchase of property for the disposal of sludge generated at the Site. Martin Bernstein also managed and controlled operations and made environmental compliance decisions at the Site.

72. Upon information and belief: During his tenure as Vice President of Operations for PFA and PSL, Jerome Goodman managed and controlled operations and made environmental compliance decisions with respect to the Site.

73. At the time of its incorporation, PSL had no employees.

74. Upon information and belief, in 1984, PFOC, by and through Martin Bernstein and/or Jerome Goodman, hired Leroy Dietz as mill manager at the Facility.

75. As mill manager, Leroy Dietz, under the direction of Martin Bernstein and/or Jerome Goodman, hired additional Facility personnel.

76. On multiple occasions, officers of PFA and its predecessor PFOC, including without limitation Martin Bernstein and Jerome Goodman, visited the Facility.

77. During at least some of those visits, such officers, including without limitation Martin Bernstein and Jerome Goodman, inspected the production processes at the Facility to determine whether and how such processes should be modified.

78. Based on their inspections of the Facility, PFA, PFA's predecessor PFOC, Martin Bernstein and Jerome Goodman directed Facility personnel to modify the Facility's production processes, including processes related to screening, flow, and cleaners.

79. Martin Bernstein and Jerome Goodman each participated in, managed and controlled PSL's application for government permits necessary to operate the Site's pulp Facility and dispose of sludge and other by-products of the Facility's operations.

80. PFA, PFOC, Martin Bernstein and/or Jerome Goodman directed the hiring of consultants to assist in matters related to production, waste disposal, and environmental compliance at the Facility, including without limitation applications for government permits and approvals associated with sludge, water, clarifiers, and waste disposal.

81. From 1984 to at least 1985, PFA, PFOC, Martin Bernstein and/or Jerome Goodman received and processed billing, collection and accounting information for the Facility.

82. From 1984 to at least 1985, PFA, PFOC, Martin Bernstein and/or Jerome Goodman supervised the creation and maintenance of corporate books and records related to the Facility.

83. From 1984 to at least 1985, PFA, PFOC, Martin Bernstein and Jerome Goodman provided supervisory and managerial assistance to PSL.

84. PSL was inadequately capitalized for the purpose for which it was organized.

85. PFA and Martin Bernstein managed and controlled the level of funding for PSL's operation.

86. PFA, PFOC, and multiple PFA subsidiaries financed PSL.

87. PFA and PFOC intermingled their assets with those of PSL.
88. In late 1983, at Martin Bernstein's request, the City applied for an Urban Development Action Grant ("UDAG") from the U.S. Department of Housing and Urban Development ("HUD") in the amount of \$400,000, in order to assist in financing the operation of the Facility.
89. By letter dated January 19, 1984, Martin Bernstein informed HUD that the operation of the Facility would not be feasible without a loan of UDAG grant money.
90. In early 1984, HUD awarded the City a UDAG grant in the amount of \$412,000, of which the City loaned PSL \$400,000.
91. PFOC, by and through Martin Bernstein, guaranteed PSL's repayment of the UDAG loan to the City, during the first four years of the loan term.
92. On or about June 18, 1984, PSL, by and through Martin Bernstein, acquired title to the Site, including land, buildings and improvements therein from the Bank of New York for a purchase price of \$1,750,000.
93. PSL, by and through Martin Bernstein, financed its purchase of the Site property by giving the Bank of New York a first mortgage on the property in the amount of \$1,750,000.
94. In or about September 1984, PFOC, by and through Martin Bernstein, gave PSL \$600,000 as equity funds to be used for working capital and development activities at the Site.
95. By letter dated December 7, 1984, Martin Bernstein, on behalf of PFA and/or PFOC, assigned to NYSDEC a \$15,000 certificate of deposit made payable to "Ponderosa Fibres Corp.," as security for PSL's compliance with the New York State Mined Land Reclamation Law and Environmental Conservation Law § 23-2701 et seq., in connection with PSL's application for a state permit to dispose of sludge from its pulp manufacturing operations at the Site.
96. During the period from 1984 to at least 1985, PFA and all or some of its subsidiaries, PTC, PPP, BJF, and PGC, by and through Martin Bernstein and/or Jerome

Goodman, purchased and shipped equipment and supplies to the Site for use in operating the Facility.

97. Upon information and belief, in May 1985, PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman approved what was originally intended to be the temporary closure of the Facility due at least in part to its lack of profitability.

98. PFA, PSL, PFOC, Martin Bernstein and Jerome Goodman did not take steps to properly dispose of waste materials or CERCLA hazardous substances at the Site, including without limitation CERCLA hazardous substances contained in drums, waste chemicals, process liquids, chemicals in underground tanks, and sludges generated by or released from the pulp Facility, and in drums and containers left by prior owners and operators of the Site and owned by PSL.

99. Upon information and belief, PFA, PFOC, Martin Bernstein and Jerome Goodman managed and controlled PSL's decision to close the Facility permanently.

100. Upon information and belief, PFA, PFOC, Martin Bernstein and Jerome Goodman provided PSL with insufficient funds to properly close the Facility and dispose of CERCLA hazardous substances therefrom.

101. PSL defaulted on its \$1,750,000 note to the Bank of New York and, in or about June 1985, the Bank foreclosed on the Site property.

102. On October 29, 1985, NYSDEC conducted an inspection of the Site's wastewater treatment facility and found, inter alia, that: the facility had not been winterized; the yard outside the facility contained large areas of dried sludge; several parts of the facility were sagging or in disrepair; and the facility's settling tanks contained contaminated waste water.

103. Martin Bernstein negotiated on behalf of PFA, PSL and PFOC to convey the Site property to BNY through a deed in lieu of foreclosure. Martin Bernstein executed an amendment to the UDAG agreement on September 4, 1986, which permitted the City as creditor to liquidate

equipment at the Site and provided for PFOC's guarantee of UDAG repayments. PFA as PSL's sole shareholder approved the execution of the deed in lieu of foreclosure, dated April 23, 1986.

104. On June 22, 1987, the directors of PFA, including Martin Bernstein, Louis Feil, and Jeffrey Feil, elected Martin Bernstein as President of PFA and Jeffrey Feil as Secretary of PFA.

105. On or about June 22, 1987, Martin Bernstein acquired 100% of PSL's stock from PFA for \$1.00.

106. On or about June 22, 1987, PFA, by and through Martin Bernstein, merged its other subsidiaries, PTC, PPP, BJF, and PGC, into itself. PFA, as the surviving corporation, assumed all of the obligations of the four merging subsidiaries. Martin Bernstein signed the articles of the merger as president of PFA, PTC, PPP, BJF, and PGC.

107. On July 6, 1987, under the direction of Martin Bernstein, PFOC merged into PFA, and PFA was the surviving corporation.

108. On July 6, 1987, by virtue of the merger of PFOC into PFA, the outstanding shares of PFA were canceled, and 100% of the shares of PFOC stock were converted into newly issued shares of PFA stock.

109. On July 6, 1987, Louis Feil, Jeffrey Feil, and Martin Bernstein acquired 100% of the newly issued shares of PFA stock, in the same proportions as they had held shares of PFOC stock prior to the merger.

110. Upon information and belief, from July 6, 1987 to the present, Louis Feil, Jeffrey Feil, and Martin Bernstein together have owned 100% of the shares of PFA stock.

111. On July 6, 1987, by virtue of the Merger, all of the obligations and liabilities belonging to or due PFOC were vested in PFA. PFA also acquired all of the assets and property, and all of the rights, privileges, powers, franchises and authority, of PFOC.

112. PFA was the successor corporation of PFOC.

113. PFA was the parent corporation of PSL, from the beginning of PSL's corporate existence until PSL was acquired by Martin Bernstein on or about June 22, 1987.

114. Upon information and belief, during all or most of the period from the date of the acquisition of PSL by Martin Bernstein until March 1992, PSL under the direction of Martin Bernstein ceased paying corporate franchise taxes to the State of New York and, therefore, was dissolved by proclamation on March 25, 1992.

115. Upon information and belief, in or about 1998, PFA shareholders, including Martin Bernstein, personally guaranteed repayment of approximately \$2.5 million of an approximately \$10 million loan to PFA.

116. Upon information and belief, in 1999, PFA shareholders, including Martin Bernstein, loaned PFA approximately \$400,000, without executing a formal loan agreement.

117. Upon information and belief, multiple management agreements between PFA and its subsidiaries and other affiliated entities are signed by the same person acting on behalf of all parties to the agreements.

118. Upon information and belief, one or more management agreement(s) between PFA, Ponderosa Fibres of Washington, LP, and PFW Management, LLC were signed by Martin Bernstein on behalf of all three entities.

FIRST CLAIM FOR RELIEF
(Cost Recovery Under 42 U.S.C. § 9607(a))

119. The United States realleges and incorporates Paragraphs 1 through 121 as if fully set forth herein.

120. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this Section--

...

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,

... from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government ... not inconsistent with the national contingency plan

The amounts recoverable in an action under this section shall include interest on the amounts recoverable under subparagraph[] (A)

121. The Site is a location where hazardous substances have been deposited, stored, disposed of, placed or otherwise come to be located, and thus is a "facility" within the meaning of Sections 101(9) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(9), 9607(a).

122. There have been "releases" or "threatened releases" of "hazardous substances," within the meaning of Sections 101(14), 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22), 9607(a), into the environment at the Site.

123. PFA "operated" the Site at the time of disposal of hazardous substances at the Site, or was the alter ego of a company (PSL) which "owned" and "operated" the Site at the time of disposal of hazardous substances at the Site, within the meaning of Sections 101(20) and 107(a)(2) of CERCLA, 42 U.S.C. §§ 9601(20), 9607(a)(2).

124. Martin Bernstein and Jerome Goodman each "operated" the Site at the time of disposal of hazardous substances at the Site, within the meaning of Sections 101(20) and 107(a)(2) of CERCLA, 42 U.S.C. §§ 9601(20), 9607(a)(2).

125. The United States has incurred at least \$770,000 in unreimbursed "response" costs, within the meaning of Sections 101(25) and 9607(a) of CERCLA, 42 U.S.C. §§ 9601(25), 9607(a), related to the release or threatened release at the Site of hazardous substances, excluding friable asbestos, and the United States continues to incur such costs.

126. The response costs incurred by the United States in relation to the Site are "not inconsistent with" the National Contingency Plan, 40 C.F.R. Part 300, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

127. Pursuant to Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), Defendants PFA, Martin Bernstein and Jerome Goodman are jointly and severally liable to the United States for all response costs incurred by the United States with respect to the Site, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint.

128. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is entitled to a declaratory judgment that Defendants PFA, Martin Bernstein and Jerome Goodman are jointly and severally liable to the United States, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for all future response costs to be incurred by the United States with respect to the Site not inconsistent with the NCP, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint.

SECOND CLAIM FOR RELIEF
(Fraudulent Transfer Under 28 U.S.C. §§ 3304, 3306)

129. The United States realleges and incorporates Paragraphs 1 through 130 as if fully set forth herein.

130. Section 3304 of the FDCPA, 28 U.S.C. § 3304, provides:

(a) DEBT ARISING BEFORE TRANSFER.- . . . [A] transfer made . . . by a debtor is fraudulent as to a debt to the United States which arises before the transfer is made . . . if –

(1)(A) the debtor makes the transfer . . . without receiving a reasonably equivalent value in exchange for the transfer . . . ; and

(B) the debtor is insolvent at that time or the debtor becomes insolvent as a result of the transfer

(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.- (1)
... [A] transfer made ... by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made. . . , if the debtor makes the transfer. . . -

(A) with actual intent to hinder, delay, or defraud a creditor; or
(B) without receiving a reasonably equivalent value in exchange for the transfer . . . if the debtor -

(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

131. Section 3306(a) of the FDCPA, 28 U.S.C. § 3306(a), establishes a cause of action for (a) the avoidance of a fraudulent transfer or obligation to the extent necessary to satisfy a debt to the United States; (b) a remedy against the asset transferred or other property of the transferee; or (c) any other relief the circumstances may require.

132. Section 3002(3)(B), 28 U.S.C. § 3002(3)(B), defines the term "debt" to include "an amount that is owing to the United States on account of a . . . penalty, . . . recovery of a cost incurred by the United States, or other source of indebtedness to the United States"

133. On May 14, 1996, by serving upon PFA a 104(e) Notice and Request, EPA informed PFA that the company was potentially liable as a former owner or operator of the Site for the reimbursement of response costs incurred and to be incurred with respect to the Site, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

134. PFA's response to EPA's 104(e) Notice and Request was due on June 13, 1996. PFA failed to provide any response to the Notice and Request, or to request an extension of time, by June 13, 1996.

135. By letters dated June 27, 1996 and August 8, 1996, EPA informed PFA that its response to the 104(e) Notice and Request was overdue, requested its immediate submission, and indicated that pursuant to Section 104(e)(5)(B) of CERCLA, 42 U.S.C. § 9604(e)(5)(B), PFA was potentially liable for civil penalties, under Section 104(e)(2), 42 U.S.C. § 9604(e)(2).

136. On September 11, 1996, EPA issued a demand for penalties under Section 104(e). PFA made no offer in response.

137. Instead, on September 18, 1996, more than 90 days after the deadline, PFA provided a response to the 104(e) Notice and Request. PFA's September 18, 1996 response was both incomplete and, in several respects, inaccurate.

138. As a result of PFA's failure to timely respond to EPA's 104(e) Notice and Request, and EPA's overdue notices and penalty demand, PFA and its officers had actual or constructive notice that PFA was subject to civil penalties under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e).

139. Upon information and belief, PFA had actual or constructive notice of its potential environmental liabilities with respect to the Site prior its receipt of EPA's 104(e) Notice and Request in May 1996.

140. On June 27, 1997, the United States filed a Complaint against PFA in *United States v. Ponderosa Fibres of America, Inc.*, Civil Action No. 97-CV-909 ("Penalty Action"), seeking civil penalties, under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the failure of PFA to provide timely, accurate or complete information requested by EPA concerning releases and threatened releases of hazardous substances into the environment at or from the Site.

141. PFA failed to accurately and completely supplement its response to EPA's 104(e) Notice and Request until at least November 23, 1999, when it responded to discovery requests by the United States.

142. Subsequent discovery responses from a third party established that PFA's November 23, 1999 responses were in certain respects also inaccurate and incomplete.

143. The amount PFA owes the United States on account of the penalties that have accrued, and that the United States seeks to recover from PFA in the Penalty Action, equals up to \$25,000 per day per violation of Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), before January 30, 1997, and up to \$27,500 per day per violation on and after January 30, 1997, pursuant to Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), and Pub. L. No. 104-134, 61 Fed. Reg. 69,360 (1996).

144. On August 18, 1999, the United States filed the original Complaint against PFA in this Civil Action No. 99-CV-1305 ("Cost Recovery Action"), seeking to recover all response costs incurred and to be incurred by the United States with respect to the Site.

145. The amount PFA owes the United States on account of the response costs the United States has incurred, and that the United States seeks to recover from PFA in this Cost Recovery Action, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), equals at least \$770,000.

146. The penalties for failure to adequately respond to EPA's information request, sought in the Penalty Action, under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), constitute a "debt" to the United States within the meaning of Sections 3002(3), 3304 and 3306 of the FDCPA, 28 U.S.C. §§ 3002(3), 3304, 3306.

147. The response costs incurred and to be incurred by the United States with respect to the Site, sought in this Cost Recovery Action, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), constitute a "debt" of PFA to the United States within the meaning of Sections 3002(3), 3304 and 3306 of the FDCPA, 28 U.S.C. §§ 3002(3), 3304, 3306.

148. PFA is, and at all relevant times was, a "debtor" of the United States, within the meaning of Sections 3002(4) and 3304 of the FDCPA, 28 U.S.C. §§ 3002(3) and 3304.

149. Upon information and belief, at all relevant times, Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Louis Feil, Roland Fjallstrom, and Robert Pitman have each been an officer, director and/or person in control of PFA and, therefore, an "insider" within the meaning of Sections 3301(5)(B) and 3304 of the FDCPA, 28 U.S.C. §§ 3301(5)(B) and 3304.

150. From approximately 1995 to 2000, the recycled paper pulp market has been in a downturn.

151. PFA's plants have been operating at partial capacity from approximately 1996 to 2000, thereby reducing the company's total income and profit margins.

152. By 1999, PFA liquidated its interest in several subsidiaries and affiliates and reduced its non-core operations.

153. From 1996 to 1999, PFA experienced losses totaling over \$21 million.

154. In 1996, PFA experienced a net loss of at least \$1.4 million.

155. PFA is expected to post a loss of approximately \$6 million in 2000.

156. Upon information and belief, each year from 1996 through 1999, PFA's liabilities exceeded its assets.

157. Upon information and belief, for each year from 1996 through 1999, PFA did not pay all of its debts as they became due.

158. On average, between 1995 and 1998, PFA reduced its total officers' salaries by over \$235,000 per year.

159. PFA made at least the following transfers:

a. From 1993 to 1996, PFA transferred a total of over \$18 million in distributions to its three shareholders, Martin Bernstein, Louis Feil and Jeffrey Feil, in the approximate amounts set forth in the following table:

<u>Shareholder</u>	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>TOTAL</u>
Martin Bernstein	\$537,710.00	\$766,570.00	\$1,132,248.00	\$2,452,136.00	\$4,888,664.00
Louis Feil	\$1,209,847.00	\$1,724,782.00	\$2,547,525.00	\$5,517,306.00	\$10,999,460.00
Jeffrey Feil	\$268,854.00	\$383,284.00	\$566,105.00	\$1,226,068.00	\$2,444,311.00
<u>TOTAL</u>	<u>\$2,016,411.00</u>	<u>\$2,874,636.00</u>	<u>\$4,245,878.00</u>	<u>\$9,195,510.00</u>	<u>\$18,332,435.00</u>

Upon information and belief, PFA made a total of over \$2 million in distributions to its shareholders after May 14, 1996.

b. In 1999, PFA transferred a total of at least \$336,000 to Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Roland Fjallstrom, and Robert Pitman through the payment of salary increases and/or bonuses, in the approximate amounts set forth in the following table:

<u>Officer</u>	<u>1998 Income</u>	<u>1999 Income</u>	<u>1999</u> <u>Increases/Bonuses</u>
Martin Bernstein	\$62,499.84	\$203,365.12	\$140,865.28
Nathan Bernstein	\$75,000.64	\$157,499.92	\$82,499.28
Jeffrey Feil	\$53,944.32	\$69,110.50	\$15,166.18
Roland O.A. Fjallstrom	\$149,099.08	\$214,099.08	\$65,000.00
Robert L. Pitman	\$85,050.36	\$117,546.94	\$32,496.58
TOTAL	\$425,594.24	\$761,621.56	\$336,027.32

c. Upon information and belief, PFA made other transfers, or incurred obligations, after PFA believed, or reasonably should have believed, that it would incur debts beyond its ability to pay as they became due.

d. Upon information and belief, PFA made other transfers, or incurred obligations, after PFA knew, or reasonably should have known, of its potential CERCLA liability.

160. The transfers referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, were part of a system, policy or scheme designed to avoid, or resulting in the avoidance of, the environmental obligations of its participants, including PFA and Martin Bernstein, under applicable statutory, regulatory and common law.

161. PFA had debts to the United States that arose before the transfers referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, were made.

162. Upon information and belief, at the time of each transfer referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, PFA was insolvent or PFA became insolvent as a result of the transfer, within the meaning of Section 3304(a)(1)(B) of the FDCPA, 28 U.S.C. § 3304(a)(1)(B).

163. Upon information and belief, PFA made each transfer referenced in Paragraph 161 above without receiving a reasonably equivalent value in exchange for the transfer, within

the meaning of Sections 3304(a)(1)(A) and 3304(b)(1)(B) of the FDCPA, 28 U.S.C. §§ 3304(a)(1)(A), 3304(b)(1)(B).

164. Upon information and belief, PFA made all or some of the transfers referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, with actual intent to hinder, delay or defraud a creditor, within the meaning of Sections 3304(b)(1)(A) and 3304(b)(2) of the FDCPA, 28 U.S.C. §§ 3304(b)(1)(A), 3304(b)(2).

165. Upon information and belief, at the time of each transfer referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, PFA intended to incur, or believed or reasonably should have believed that it would incur debts beyond its ability to pay as they became due, within the meaning of Section 3304(b)(1)(B)(ii) of the FDCPA, 28 U.S.C. § 3304(b)(1)(B)(ii).

166. Each of the transfers referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, was fraudulent as to a debt to the United States, within the meaning of Sections 3304(a)(1) and 3304(b) of the FDCPA, 28 U.S.C. §§ 3304(a)(1), 3304(b).

167. The United States is entitled to avoidance of each of the transfers referenced in Paragraph 161 above, which occurred in or after, and possibly before, 1996, to the extent necessary to satisfy PFA's debt to the United States, and to any other relief that may be required to satisfy such debt, pursuant to Section 3306(a) of the FDCPA, 28 U.S.C. § 3306(a).

THIRD CLAIM FOR RELIEF

(Priority of Federal Claims Under 31 U.S.C. § 3713)

168. The United States realleges and incorporates Paragraphs 1 through 169 as if fully set forth herein.

169. Pursuant to 31 U.S.C. § 3713(a), claims of the United States shall be paid first when a person indebted to the United States is insolvent and (i) makes a "voluntary assignment" of property, (ii) property of the debtor, if absent, is attached, or (iii) an act of bankruptcy is committed.

170. Pursuant to 31 U.S.C. § 3713(b), a representative of a person paying any part of a debt of the person before paying a claim of the United States is liable to the extent of the payment for unpaid claims of the United States.

171. The penalties for failure to adequately respond to EPA's information request, sought in the Penalty Action, under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), constitute a "debt" by PFA to the United States, within the meaning of 31 U.S.C. § 3713.

172. The response costs incurred and to be incurred by the United States with respect to the Site, sought in the Cost Recovery Action, under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), constitute a "debt" by PFA to the United States within the meaning of 31 U.S.C. § 3713.

173. The penalties for failure to adequately respond to EPA's information request, sought in the Penalty Action, under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), constitute a "claim" of the United States against PFA, within the meaning of 31 U.S.C. § 3713.

174. The response costs incurred and to be incurred by the United States with respect to the Site, sought in this Cost Recovery Action, under Section 107(a) of CERCLA, 42 U.S.C. § 9607, constitute a "claim" of the United States against PFA, within the meaning of 31 U.S.C. § 3713.

175. Each of the United States' claims, including without limitation those referenced in Paragraphs 174 and 175 above, is "unpaid" within the meaning of 31 U.S.C. § 3713(b).

176. During or after 1999, PFA made "voluntary assignment[s] of property," within the meaning of 31 U.S.C. § 3713(a), including without limitation the transfers referenced in Paragraph 161 above.

177. During or after 1999, PFA made transfers or payments constituting "act[s] of bankruptcy," within the meaning of 31 U.S.C. § 3713(a), including without limitation the transfers referenced in Paragraph 161 above.

178. Upon information and belief, when PFA made the transfers referenced in Paragraph 161 above which occurred during or after 1999, PFA was “insolvent” and “without enough property to pay all debts,” within the meaning of 31 U.S.C. § 3713(a).

179. Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Roland Fjallstrom, and Robert Pitman are each liable as a “representative” of PFA, within the meaning of 31 U.S.C. § 3713(b), to the extent of PFA's transfers referenced in Paragraph 161 above occurring during or after 1999.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States of America respectfully requests that this Court:

A. Enter a judgment in favor of the United States, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), that Defendants PFA, Martin Bernstein and Jerome Goodman are jointly and severally liable for all unrecovered response costs incurred by the United States with respect to the Site, plus interest thereon, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint;

B. Enter a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that Defendants PFA, Martin Bernstein and Jerome Goodman are jointly and severally liable to the United States for all future response costs to be incurred by the United States with respect to the Site not inconsistent with the National Contingency Plan, plus interest thereon, except response costs incurred exclusively in the removal of friable asbestos located at the Site prior to the date of filing of this Complaint;

C. Enter a judgment that the transfers from PFA, referenced in Paragraph 161 above, were fraudulent as to debts to the United States and null and void to the extent necessary to satisfy the debts of PFA to the United States, pursuant Sections 3304 and 3306 of the FDCA, 28 U.S.C. §§ 3304, 3306, including without limitation debts to the United States under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607;

D. Enter a judgment that Defendants Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Roland Fjallstrom, and Robert Pitman are each personally liable to the United States, to the extent that he made or directed transfers, assignments or payments by PFA before paying claims of the United States, including without limitation the United States' claims under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607, in violation of Section 3713(b) of the Federal Priority Statute, 31 U.S.C. § 3713(b);

E. Freeze and impose a Constructive Trust for the benefit of the United States over the assets of Defendants Martin Bernstein, Nathan Bernstein, Jeffrey Feil, the Estate of Louis Feil, Roland Fjallstrom, and Robert Pitman, in amounts equal in real dollars to the wrongful transfers from, or assignments or payments by, PFA to those Defendants, to ensure the satisfaction of the United States' claims against PFA, including without limitation the United States' claims under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607;

F. Enjoin Defendant PFA, its officers, directors, shareholders, agents, employees, successors and attorneys, including without limitation Defendants Martin Bernstein, Nathan Bernstein, Jeffrey Feil, Roland Fjallstrom, and Robert Pitman, from transferring, dissipating, encumbering, assigning, disposing, removing, concealing, ill treating, wasting, destroying, converting, or otherwise adversely affecting the value of any cash, real or other property, or any other assets in the possession of PFA, to the extent necessary to satisfy the claims of the United States against PFA, including without limitation the United States' claims under Sections 104(e) and 107 of CERCLA, 42 U.S.C. § 9604(e), 9607;

G. Award the United States its costs of this action; and

H. Grant the United States such other and further relief as the Court deems just and proper.

Respectfully Submitted,

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: 10/20/00

By:

DAVID L. WEIGERT
(N.D.N.Y. Bar No. 105334)
PAMELA A. MOREAU
(N.D.N.Y. Bar No. 105549)
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044

THOMAS J. MARONEY
United States Attorney
Northern District of New York

JAMES C. WOODS
(N.Y. Bar No. 102843)
Assistant United States Attorney
Northern District of New York
231 James T. Foley Courthouse
445 Broadway
Albany, New York 12207

OF COUNSEL:

BRIAN E. CARR
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866